BOOK REVIEWS

Easements and Restrictive Covenants in Australia by Adrian J. Bradbrook and Marcia A. Neave (Butterworths Pty. Ltd., Sydney, 1981) pp. i-xlv, 1-410, Index 411-422. Price $42.50. ISBN 0 409 30048 9.

The story is told of the property-law lecturer who could not remember during class which land was subject to the benefit and which to the burden when dealing with restrictive covenants, or easements. One day he thought he had solved the problem by writing on his left hand covenantor/burden/servient and on his right covenantee/benefit/dominant. Off he went to class secure in the knowledge he knew which was which. During class he forgot which was his left and which was his right!

No such problem should face the reader of *Easements and Restrictive Covenants in Australia.* The authors have carefully explained basic terminology relevant to the particular interest with which each is involved. As an example, the section on the enforcement of restrictive covenants,[1] in setting out the issues relevant, succinctly describes the initial analysis necessary before determination of whether the benefit or burden 'pass'. It is this type of approach of both authors which makes the book so valuable for law students, the practitioner and, indeed, our forgetful property-law lecturer. Too frequently it is assumed by text writers that the complexities for restrictive covenants, or the technicalities of easements, once mentioned are understood. The concepts behind the esoteric terminology of dominant and servient tenements, benefit and burden, often present a recurring barrier to ready assimilation of knowledge. Each time the terms are used the reader mentally must refresh his understanding thereof and so loses the points being discussed. However, with the book under review this difficulty has been overcome by sensible, simple explanatory material.

The book is designed to comment on and explain the restrictive covenant and the easement, with particular discussion of relevant Australian law. With this in mind the book is divided into three parts. Chapters 1 to 11 deal with easements, Chapters 12 to 17 with restrictive covenants, and the last two Chapters concern matters somewhat common to both easements and restrictive covenants. Throughout, relevant English law is discussed but stress is placed on Australian statutory provisions and judicial interpretation.

The first part of the book on easement has been written by Dr. A. Bradbrook. He has covered the creation of easements, easements and the Torrens system, and the different types of easements. It is particularly pleasing to find that Chapter 2 deals with equitable easements in which reference is made to estoppel, acquiescence, and to the Torrens system and the equitable easement. Acquiescence accompanying delay — as laches — is discussed in Chapter 18 on remedies. Chapter 11 discusses easements and the Torrens system. This chapter deals with the creation of easements under this system and refers to their effect on indefeasibility by reference to the legislation of the individual States. Dr. Bradbrook's approach in alluding to 'what if', 'what about' problems — and answering them — bespeaks an understanding of the need to inform the reader as well as to stimulate his thinking. For the undergraduate law student, in particular, this is important and fruitful.

Mrs. Neave is responsible for Chapters 12 to 17 on restrictive covenants. She has succeeded in allowing the restrictive covenant to rightfully emerge as a fascinating interest. This has been achieved by a style of presentation which reduces 'the morass

[1] Bradbrook A. J. and Neave M. A., *Easements and Restrictive Covenants in Australia* (1981) 196-7.

of technicalities, inconsistencies and uncertainties'[2] to manageable data. Chapter 17 is devoted to the restrictive covenant and the Torrens system. In this chapter the effect of notification on the register in each State is commented on by reference, *inter alia,* to the over-worked *Miller v. Minister of Mines and the A.G. of N.Z.*[3] and the oft neglected section 43 of the Transfer of Land Act 1958.

In the third part of the book, Chapter 18 deals with remedies and Chapter 19 concerns the modification and extinguishment of these easements. The authors were responsible for the sections on their particular interests. One can find out all one needs to know about equitable relief in the excellent texts by Meagher, Gummow and Lehane,[4] and by Spry.[5] However, Chapter 18 sets the context for the relief peculiar to breach of covenants and disturbance of the easement, including relevant legal relief for the latter interest.

It could be said that this book will appeal to several groups. Presumably it is hoped that the book will be used by practitioners for whom particularly the sections involving Torrens legislation will reward constant reference. The second group is that of law students and academics, for the former it will be an invaluable medium for learning and for the latter, at the least, an excellent aide-memoire. The student or practitioner of town planning, environmental studies and the like, form the third group to whom the book should appeal. With such a diverse audience, it must be asked whether the text will suit all? Obviously, yes. The clarity of the material aided by the simplicity of its presentation will enable these needs to be met.

The authors set out to examine the 'rules which govern the creation, enforceability and extinguishment' (Preface) of the easement and the restrictive covenant through 'a study of the large body of Australian case and statute law which has developed in this area' (Preface). They have achieved their aim admirably.

JUDITH SIHOMBING*

Strike Law in Australia by E. I. Sykes (Law Book Company, Sydney, 1982) pp. xxiii, 1-369, $35.00 (hardback) ISBN 0 455 20089 0.

Professor Sykes' second edition of *Strike Law in Australia* updates his previous book written in the late 1950's and incorporates the considerable legislative and common law changes that have occurred since that time. Sykes also sees it as an opportunity to record the 'changed social attitudes to the use of judicial restraints over direct action by the participants in industrial relations'.[1] The book is certainly ample testament to our obsession with reducing industrial action by imposing layer upon layer of sanctions and controls on legislatures which are already overburdened with anti-strike provisions. Of course much of it is the product of a conservative ideology. The maze of legal controls over strikes, picketing, secondary boycotts and black bans as contained in both statutory limitations and ordinary criminal law are designed to regulate and control industrial conflict by reducing the collective power of labour and limiting the more disruptive effects of industrial pressure. Its application is however rather limited. Today much of it lies dormant and unused except for the odd maverick employer or state premier who has neither the prescience nor perhaps the need to cultivate good long term industrial relationships.

[2] *Ibid.* 197.

[3] [1963] A.C. 484.

[4] Meagher R. G., Gummow W. M. C. and Lehane J. R. F., *Equity: Doctrines and Remedies* (1975).

[5] Spry I. C. F., *The Principles of Equitable Remedies* 2nd ed. (1980).

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[1] Sykes E. I., *Strike Law In Australia* (1982) (v).